

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM MCKOBY,

Plaintiff,

v.

GLEN POST, *et al.*,

Defendants.

CASE NO. C17-1517RSM

ORDER AFFIRMING DECISION NOT
TO RECUSE VOLUNTARILY

THIS MATTER is before the Court on review of Chief Judge Ricardo Martinez's Order [Dkt. #8] declining to recuse himself in response to *pro se* Plaintiff William McKoby's "Affidavit of Prejudice" [Dkt. #6], which the Court treated as Motion for Recusal The Order was referred to this Court as the most senior non-Chief Judge under 28 U.S.C. § 144 and LCR 3(e).

A federal judge should recuse himself if "a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." 28 U.S.C. § 144; *see also* 28 U.S.C. § 455; *Yagman v. Republic Insurance*, 987 F.2d 622, 626 (9th Cir. 1993). This objective inquiry is concerned with whether there is the appearance of bias, not whether there is bias in fact. *See Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992); *see also United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980).). In the absence of specific

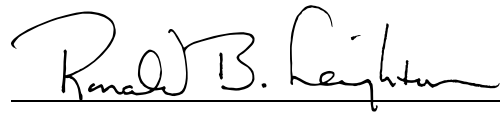
1 allegations of personal bias, prejudice, or interest, neither prior adverse rulings of a judge nor his
2 participation in a related or prior proceeding is sufficient” to establish bias. *Davis v. Fendler*,
3 650 F.2d 1154, 1163 (9th Cir. 1981). Judicial rulings alone “almost never” constitute a valid
4 basis for a bias or partiality motion. *Liteky v. United States*, 510 U.S. 540, 555 (1994).

5 McKoby’s motion does not identify or claim any personal bias, prejudice or interest on
6 the part of Judge Martinez. Indeed, it has no factual predicate, at all. Instead, McKoby seems to
7 confuse the recusal standard in this court with the one that applies in state court: “I may not gain
8 a fair hearing or trial under Judge RS MARTINEZ and therefore file an affidavit of prejudice.”

9 McKoby has not raised any issue that would lead a reasonable person to question whether
10 Judge Martinez can be impartial in this case. His Motion for Recusal [Dkt. #6] is therefore
11 DENIED, and Judge Martinez’s Order Declining to Recuse [Dkt. #8] is AFFIRMED.

12 IT IS SO ORDERED.

13 Dated this 1st day of November, 2017.

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16 Ronald B. Leighton
17 United States District Judge
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